June 28, 2013

Ms. Marlene H. Dortch
Secretary
Federal Communications Commission
445 12th Street SW
Washington, DC 20554

Re: Notice of *Ex Parte* Communication, WC Docket No. 02-60

Dear Ms. Dortch,

On June 7, 2013, Larry Wolf, Health Information Technology Strategist, of Kindred Healthcare, Inc. (Kindred) spoke via telephone with Christianna Barnhart, Mark Walker, and Jay Schwarz of the Wireline Competition Bureau, Wireline Competition Bureau intern Erica Larson, and Maya Uppaluru of the Consumer and Governmental Affairs Bureau, all at the Federal Communications Commision. The purpose of the meeting was to inform Bureau staff about Kindred and the broadband needs of skilled nursing facilities (SNFs) in order to help inform the Commission as it designs the Skilled Nursing Facility Pilot Program.

Kindred is a for-profit, publically traded provider of post-acute care that, through its subsidiaries, operates hospitals, nursing centers, home health and hospice agencies, and contract rehabilitation services. In 2012 Kindred provided healthcare services in 2,203 locations across the United States. As a for-profit service, Kindred would be unable to receive funding from the SNF Pilot Program, a fact of which Kindred is aware.

Kindred made the following observations:

Medicare Minimum Data Set (MDS). The parties discussed emerging health care technologies that may cause SNFs to desire better broadband connectivity. One impetus to increase broadband connectivity may be increasingly sophisticated government reporting requirements. Kindred explained that the Centers for Medicaid and Medicare Services (CMS) require periodic reports from SNFs receiving Medicaid or Medicare funding. SNFs provide CMS with information about the condition of patients and treatment programs, referred to as the Minimum Data Set (MDS). CMS now collects MDSs through an online submission process. As technology has advanced, CMS has upgraded its online reporting system several times. While the connectivity required to use CMS's online system is relatively modest, the introduction of each new version has caused some SNFs to upgrade. For example, when CMS first started to require online MDS submission, it spurred some SNFs to get their first Internet connections. Kindred expects that this pattern will continue: CMS will occasionally update its MDS system and SNFs will upgrade their technology, including their Internet connectivity, to match. Furthermore, Kindred foresees that increasingly complex MDS reporting requirements will encourage the adoption of electronic health records (EHRs), because SNFs will find it easier to complete their MDS reports if they have incorporated electronic records into their everyday patient care.

Cloud Computing. Another trend that may increase the need for SNF broadband connectivity is the movement toward cloud computing. Kindred observed that the broader industry trends

toward Software as a Service and cloud computing are changing how SNFs acquire access to the software products they require. In this model, health care programs are hosted remotely on the software company's servers, and SNFs access the programs using their Internet connections. As technology advances, software companies assume increasing levels of Internet connectivity on the SNF's end. The cloud-hosted applications assume responsive and reliable Internet connections. These have to be highly available connections to support the integration into the care processes that happen round the clock.

Ancillary Service Providers. Yet another technological movement that may encourage SNFs to seek better broadband connectivity is electronic communication with pharmacies and labs. Kindred expects that electronic prescription systems will soon become the standard, and states that many ancillary services, such as labs, already prefer for SNFs to communicate with them electronically instead of by traditional fax.

Patient Protection and Affordable Care Act. The parties also discussed how the Patient Protection and Affordable Care Act (PPACA) might affect the adoption of broadband by SNFs. Specifically, the parties talked about whether the readmission penalty, which punishes hospitals that have high readmission rates, would affect the hospital-SNF relationship in a way that would have implications for SNF broadband connectivity. Kindred stated that the readmission penalty has already had an effect with hospitals looking in detail at their relationship with SNFs, and whether they can reduce readmission rates by working more closely with SNFs. Pressure from hospitals to improve post-acute care might spur the adoption by SNFs of telehealth technology, so that physicians can monitor SNF patients remotely. Furthermore, like increased MDS reporting requirements, closer SNF-hospital relationships might also lead to increased use of EHRs and the sharing of clinical information between hospitals and SNFs.

Another trend in health care, that existed before the PPACA, but is strengthened by PPACA's reforms, is the consolidation of health care providers, including SNFs. Kindred foresees a shift to more SNFs and ancillary services owned by larger organizations. This consolidation will better support the infrastructure needed for greater partnership between SNFs, hospitals and other post-acute providers, as well as increased communication among them.

HITECH Meaningful Use Stage 2. The Stage 2 requirements address Transitions of Care and require that hospitals electronically send Care Summaries for 10% of their discharges. SNFs, while not eligible for the incentives, can be recipients of these summaries. This activity will further increase the need for SNFs to be electronically connected to the acute care hospitals.

Urban Health Care Providers. Finally, Kindred noted that some SNFs are more technologically advanced than others. While Kindred is investing in technological innovation, public and not-for-profit rural SNFs often lack the resources to do so. Moreover, even more than some rural health care providers, small public and not-for-profit urban health care providers often lack sufficient broadband, because they are not in neighborhoods where high speed internet is readily available, they lack the resources to improve their connectivity, and they do not qualify for many of the subsidy programs that help rural health care providers improve their broadband connections.

Respectfully submitted,

/s/
Mark A. Walker
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